

**Indiana Department of State Revenue**  
**Revenue Ruling #2006-05IT**  
September 11, 2006

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

Adjusted Gross Income Tax – Consolidated Return

Authority: IC 6-3-2-1, Internal Revenue Code Sections 1502 & 1504, IC 6-3-4-14, 45 IAC 3.1-1-110, 45 IAC 3.1-1-111, IC 6-2.1-5-5 (repealed), 45 IAC 1-1-163 (repealed), IC 6-2.3-6-5

The taxpayer requests the Department to rule whether the taxpayer may elect to file a consolidated return with its Indiana subsidiaries for the 2005 tax year, even though they filed separate company returns in prior years.

**STATEMENT OF FACTS**

The parent and its Indiana subsidiaries, hereinafter "taxpayer", operate hospitals and health care facilities in Indiana. The taxpayer previously has filed separate company returns. The taxpayer files a federal consolidated income tax return.

**DISCUSSION**

IC 6-3-2-1(b) imposes a tax at the rate of 8.5% on the adjusted gross income derived from sources in Indiana.

Furthermore, Indiana permits an affiliated group of corporations to file a consolidated return for purposes of the adjusted gross income tax ("AGIT"). The regulations of IRC section 1502 are incorporated by reference. IC 6-3-4-14. The inclusion of a member in an affiliated group in the consolidated return is deemed to be its consent to the consolidated filing. 45 IAC 3.1-1-110. IRC Section 1504 is adopted to define an affiliated group, except that no member of the affiliated group may be included in the Indiana return unless it has adjusted gross income derived from sources within Indiana. IC 6-3-4-14; 45 IAC 3.1-1-111.

Specifically, IC 6-3-4-14 permits a consolidated filing under the following conditions:

- all members are corporations,
- all members are affiliated as defined in IRC section 1504
- all members have Indiana source adjusted gross income at some point during the year,

- all members consent to abide by the provisions of IRC Section 1502, IC 6-3-4-14, and all regulations promulgated thereunder, and
- the return must be filed by the due date.

For purposes of the gross income tax, which was repealed in 2003, an affiliated group was required to elect consolidated filing at the time it filed its first annual return. IC 6-2.1-5-5(d); 45 IAC 1-1-163.

Similarly for purposes of the utility receipts tax, an affiliated group must elect consolidated filing at the time it files its first annual return pursuant to IC 6-2.3-6-5; Indiana Department of Revenue, Instructions for Schedule 8-D.

There is, however, no such requirement for AGIT. Furthermore, the Indiana Tax Court has consistently ruled that each tax year stands on its own merits and that each year will be reviewed independently.

The taxpayer satisfies all the requirements to file an Indiana consolidated return, therefore, may elect to do same.

### **RULING**

The Department rules the taxpayer may elect to file a consolidated Indiana adjusted gross income tax return commencing with the 2005 tax year.

### **CAVEAT**

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Indiana Department of State Revenue